

INTERIM CIVIL PRACTICES AND PROCEDURES OF JUDGE W. SCOTT HARDY

(Effective September 24, 2020)

I. General Matters

A. Local Rules of Court

These Interim Civil Practices and Procedures shall be followed in addition to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Court's Local Rules.

B. Communications with the Court

Except for discovery disputes (see below), communications with the Court shall be in the form of motions which shall be accompanied by a proposed order specifying the relief requested. Correspondence should not be sent to the Court unless specifically requested.

C. Communications with Law Clerks and Other Staff

Communications with Chambers Staff concerning the administration of a case are permissible, including inquiries pertaining to the status of any pending matter. No substantive legal matters should be discussed with the law clerks.

D. Filing and Service on CM/ECF

Counsel (and not the Court) is responsible for the filing of all pleadings, documents, or any other material provided to the Court and/or the Clerk, and for service upon opposing counsel or *pro se* parties. The Court is not responsible for filing and/or service of pleadings, documents, or any other material of the parties. All filings must be made on the District's CM/ECF electronic filing system unless expressly permitted or directed to do otherwise by the Court's Local Rules.

E. Telephonic and Video Conferences

Requests for counsel or parties to participate in conferences remotely will be permitted on a case-by-case basis. Unless otherwise ordered, initial case management conferences and settlement conferences will not be conducted remotely.

F. Alternative Dispute Resolution (ADR)

The Court follows the ADR Policies and Procedures available on the Court's website (www.pawd.uscourts.gov). ADR timelines and procedures may be adjusted for good cause on a case-by-case basis.

II. Civil Matters

A. Pretrial Procedures

(1) Initial Case Management Conference (ICMC)

The Court will generally issue an order setting the date of the ICMC after the filing of a responsive pleading or disposition of a motion pursuant to Fed.R.Civ.P. 12. Prior to the conference, the parties are expected to meet and confer and file their report pursuant to Fed.R.Civ.P. 26(f). The parties must also file a fully completed Stipulation Selection ADR Process prior to the conference. The Court will issue a Case Management Order at or after the conference.

(2) Additional Status and Settlement Conferences.

Additional conferences may take place on request of counsel or at the direction of the Court.

(3) Extensions and Continuances

The Court will grant extensions for the filing of motions or briefs where good cause is shown for doing so. Requests for extensions of the discovery period will routinely be granted (at least as to the first such request) so long as the motion sets forth the specific discovery conducted to date and the specific discovery which will be conducted during the proposed extended period. Requests for extensions should be made by a short, written motion (accompanied by a proposed order), and the motion must include a statement regarding all opposing counsel's positions on an extension and a list of any prior requests for extensions. All such requests should be made at least five (5) business days in advance of the existing deadline when practicable. Parties opposing short extensions must be prepared to articulate the actual prejudice which would occur if the extension were granted.

(4) Post-Discovery Status Conferences

Unless otherwise ordered, the Court will schedule a Post-Discovery Status conference generally no more than thirty (30) days after the close of discovery in which the parties will discuss any expert witnesses, motions for summary judgment, potential trial dates, and settlement efforts.

The Court will schedule a status conference after ruling on all dispositive motions, if necessary, to discuss settlement and pretrial matters. The Court will issue a Pretrial Order following the conference setting forth all pertinent deadlines.

(5) Final Pretrial Conference

The Court will schedule a Final Pretrial Conference to address witness lists, exhibits, motions in limine, jury instructions, voir dire, verdict slips, and any other pretrial matters.

(6) Confidential Position Papers

For jury matters, the Court may, upon request, require the submission of a confidential position letter in advance of the Initial Case management Conference, settlement conference, or other status conference. Such position letters shall include: (i) a brief recitation of the most salient facts; (ii) a discussion of your party's strengths and weaknesses; (iii) your party's settlement posture; and (iv) any other matters requested by the Court. To ensure candor, these position letters are not to be filed or shared with opposing counsel, but rather, emailed to chambers in accordance with instructions to be provided. All position letters will be kept confidential.

A. Discovery Matters

(1) Length of Discovery Period and Extensions

Ordinarily, one hundred fifty (150) days is permitted for discovery unless the parties indicate that a different time frame is appropriate, and the Court approves of that time frame. Extensions of time for discovery are permitted for good cause shown, provided that the case has been advanced by counsel during the initial period of discovery. The Court will consider phased discovery in appropriate cases.

(2) Deposition and Other Discovery Disputes

For discovery disputes that arise during a deposition, the attorneys together may contact the Court by telephone to determine whether the Court wishes to resolve the matter at that time.

If a discovery dispute cannot be resolved after the parties have conferred in good faith, the parties should jointly contact chambers via telephone or email Courtroom Deputy Clerk Kallie Sheets (kallie_sheets@pawd.uscourts.gov), with a copy to Judicial Assistant Donna Stupy (donna_stupy@pawd.uscourts.gov), to schedule a telephonic status conference to discuss the dispute. No discovery motions are to be filed until after the conference except in cases of emergency as certified by counsel.

(3) Stay of Discovery

The filing of a dispositive motion does not automatically stay discovery. A stay may be sought by motion but will ordinarily be granted only for good cause shown. In appropriate circumstances, discovery may be limited to those facts in support of or opposition to the dispositive motion such as a motion to dismiss for lack of personal jurisdiction.

B. Motions and Briefs

- (1) Motions should provide a short and plain statement expressing the specific relief sought, the factual and legal grounds for such relief, and a certification that the movant has discussed the matter with all other parties. A proposed order setting forth the specific relief requested shall be filed as a separate attachment to the motion. General orders (e.g., “the motion is granted”) are not acceptable.
- (2) Briefs need not be filed for discovery motions or motions seeking extension of time or continuance. Briefs supporting or opposing dispositive motions are required but shall not exceed twenty-five (25) pages without leave of Court. Briefs supporting or opposing all other motions shall not exceed ten (10) pages without leave of Court. Reply briefs relating to dispositive motions shall not exceed fifteen (15) pages and reply briefs pertaining to all other motions shall not exceed five (5) pages.
- (3) Motions may be decided with or without oral argument as determined by the Court. Any party believing that oral argument will materially assist the Court’s decisional process may so advise the Court and request argument.

C. Briefing Schedules

Unless an Order of Court or applicable Court Rules provide otherwise:

- (1) Responses to motions to dismiss shall be filed within twenty-one (21) days from the date of service of the motion.
- (2) Responses to motions for summary judgment shall be filed within thirty (30) days from the date of service of the motion.
- (3) Responses to motions relating to discovery and other case management motions shall be filed at least seven (7) days from the date of service of the motion. If the moving party believes that there is urgency to the grant or denial of a motion

requiring expedited consideration due to the particular facts or circumstances of the matter, movant should so state in the motion and also advise Chambers and counsel for all other parties of same by telephone. Upon such request, the Court may consider modifying the response time.

- (4) Reply Briefs. A reply brief is defined as the second brief advocating a party's position on the same motion filed after the non-moving party's response. Reply briefs may be filed, without leave of court, seven (7) days (14 days for replies in summary judgment matters) from the date of service of the response to which they reply.
- (5) Surreply briefs, or other briefs, may be filed only with leave of court.
- (6) Motions for reconsideration must be filed within seven (7) days of the Order at issue.
- (7) The Court may alter any of these provisions by Order, or by notice from court staff at the Court's direction in the interests of justice.

D. Chamber Copies of Motions and Briefs

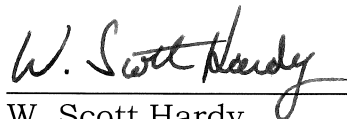
Counsel should not send courtesy copies of any motion or brief that is available on the CM/ECF System unless requested to do so.

E. Injunctions and Temporary Restraining Orders

Federal Rule of Civil Procedure 65 governs motions for preliminary injunctions and temporary restraining orders. A party seeking an injunction or temporary restraining order must demonstrate having made serious efforts to contact the opposing party or its counsel prior to seeking relief, which must be supported by affidavit in accordance with Fed.R.Civ.P. 65 (b). Otherwise, the Court will not hold a hearing on the matter or issue a temporary restraining order. In circumstances where a bond or deposit of security may be required if relief is granted, the moving party is expected to have that arranged at the time the motion is filed.

The papers in support of a motion for temporary restraining order or preliminary injunction should include affidavit(s) in support of the motion with all relevant documents attached thereto. Any response to the motion for temporary restraining order or preliminary injunction should be accompanied by affidavit(s). Both motions and responses must attach proposed findings of fact and conclusions of law.

All requests for injunctions and temporary restraining orders are handled as expeditiously as possible and the Court will, in its discretion and after review of the pleadings and affidavit(s), determine whether or not to conduct a hearing, and, if so, the scope of the testimony necessary to resolve the matter. Counsel filing any such motion should be prepared to proceed immediately with argument and testimony from supporting witnesses.

A handwritten signature in black ink, reading "W. Scott Hardy". The signature is written in a cursive, flowing style. The "W" is large and prominent, followed by "Scott" and "Hardy" in a more compact script. The signature is positioned above a horizontal line.

W. Scott Hardy
United States District Judge